

Appendix L

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)	February 15, 2005
)	
THE CITY OF ESCONDIDO)	Required Technical Investigation
201 NORTH BROADWAY)	Order No. R9-2005-0077
ESCONDIDO, CALIFORNIA 92025)	

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. The City of Escondido operates the Hale Avenue Resource Recovery Facility located at 1521 South Hale Avenue, Escondido, California. On November 10, 1999, the Regional Board adopted *Order No. 99-72, (NPDES No. CA0107981), Waste Discharge Requirements for the City of Escondido, Hale Avenue Resource Recovery Facility, Discharge To The Pacific Ocean Via the Escondido Land Outfall and the San Elijo Ocean Outfall* (Facility, WDID No. 9 000000031).
2. Between May and August 2004, 399 violations of effluent limitations prescribed in Order No. 99-72 occurred from discharges at the Hale Avenue Resource Recovery Facility (HARRF) to the San Elijo Ocean Outfall.
3. The reported violations of effluent limitations prescribed in Order No. 99-72 are subject to the mandatory minimum penalty provisions of section 13385(h) and (i) of the California Water Code which prescribe the recommended administrative civil liability in the amount of \$1,188,000.
4. Any exception to liability under California Water Code section 13385 is an affirmative defense for which the City bears the burden of proof.
5. In an effort to fully understand the factual circumstances surrounding the violations as well as their potential causes, the Regional Board is now investigating the operating conditions at HARRF during the violation period. In order for the Regional Board to conclude its investigation, additional information is needed from the City.

IT IS HEREBY ORDERED that, pursuant to section 13267 of the California Water Code, the City of Escondido conduct a technical investigation, and prepare and submit a technical report to the Regional Board no later than **March 15, 2005**. The technical report shall contain, but not be limited to, the following information:

1. The nature, cause and circumstances of the effluent limitation violations. This should include, but not be limited to the following:
 - a. If the City has determined that a specific chemical constituent(s) was discharged into the sanitary sewer system that resulted in the effluent limitation violations, the name(s) and concentration(s) of the identified constituent(s) during the violation period and all influent monitoring data relating to said constituent(s) for the past 5 years. Include a detailed explanation of the effect each constituent had at the recorded concentration on the treatment plant.
 - b. The City's basis for suspecting that the introduction of a specific pollutant into the sewer system caused the reported violations.
 - c. A detailed discussion of the decision-making process used to identify all possible causes and/or sources of the effluent limitation violations including a timeline of when decisions were made as well as the effectiveness of the decisions made.
2. An explanation as to why the daily maximum effluent limitation for carbonaceous biochemical oxygen demand was exceeded numerous times over a fifty-five day period.
3. All steps taken by the City to bring the plant back into compliance in order to mitigate the effects of the violations.
4. The City's assessment, including a timeline of steps taken, regarding the effects of the violations on the receiving waters.
5. California Water Code Section 13385, pertaining to mandatory minimum penalties for effluent violations, allows for the collapse of the mandatory penalty resulting from a single operational upset¹ under certain circumstances listed below. If the City intends to assert that a single operational upset occurred, the City must demonstrate all of the following:
 - a. The upset was not caused by wastewater treatment plant operator error and was not due to discharger negligence.
 - b. If not for the operational upset of the biological treatment process, the violations would not have occurred nor would they have continued for more than one day.
 - c. The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.

¹ Only applies to violations that occur during a period for which the Regional Board has determined that violations are unavoidable, but in no case may that period exceed 30 days.

February 15, 2005

- d. The discharger is implementing an approved pretreatment program.

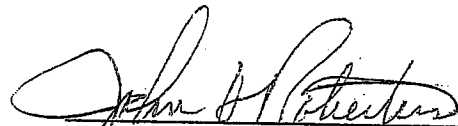
The submitted report shall include the following signed certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Any additional information not specifically requested should be submitted by **March 15, 2005**.

Failure to submit the above information by the date requested may result in the imposition of administrative civil liability pursuant to California Water Code section 13268.

Dated this 15th day of February 2004



JOHN H. ROBERTUS
Executive Officer

